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September 9, 1992

Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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Re: Notice of Ex Parte Presentations
CC Docket No. 92-90

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Searcy:

Pursuant to the requirements of Section 1.1206 of the Commission's Rules, we are submitting the original and one copy of this disclosure of a written ex parte presentation on behalf of Household International regarding the Telephone Consumer Protection Act of 1991 (CC Docket No. 92-90). That presentation was submitted to Commissioner Sherrie P. Marshall this day.

A copy of the written presentation submitted to Commissioner Marshall is attached hereto. This disclosure and the attachment should be included in the public record of CC Docket No. 92-90.

Should any questions arise regarding this matter, please communicate with the undersigned member of this firm.

Sincerely,

SANTARELLI, SMITH & CARROCCIO

By: 

A. Thomas Carroccio

Counsel for
Household International

cc: The Honorable Sherrie P. Marshall

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The Honorable Sherrie P. Marshall
Federal Communications Commission
1919 M Street, N.W.
Room 826
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Telephone Consumer Protection Act of 1991
CC Docket No. 92-90

Dear Commissioner Marshall:

Household International ("Household") appreciates the time and attention you and your staff devoted to Household's recent presentation on CC Docket No. 92-90, the Commission proceeding regarding the Telephone Consumer Protection Act of 1991 ("TCPA").

As was discussed in the course of the presentation, Household believes that the Commission should articulate an express exemption for debt collection calls when addressing the exceptions to any prohibited uses of "auto dialers". To this end, Household is submitting herewith suggested language for inclusion in the order adopting the rules implementing TCPA.

Should you or any member of your staff have any questions regarding this matter, please do not hesitate to contact the undersigned member of this firm.

Sincerely,

SANTARELLI, SMITH & CARROCCIO

By: 

A. Thomas Carroccio

Counsel for
Household International

SUGGESTED LANGUAGE

The NPRM tentatively concluded that "a separate express exemption for debt collection calls is not necessary."^{1/} That conclusion was based on several factors. First, the NPRM recognized that while businesses utilize auto dialers in their debt collection activities, TCPA did not intend to prohibit such use. The NPRM also found that otherwise lawful debt collection calls do not adversely affect the privacy of the contacted debtor. In addition, the NPRM stated the belief that debt collection calls fall within the scope of our proposed exemption for commercial calls "that do not offer a product or service and do not affect privacy concerns." Finally, debt collection calls also were determined by the NPRM to fall within the "business relationship" exemption.

Several commenters addressed the use of "auto dialers" in debt collection activities. One of the commenters opposing our proposed inclusion of debt collection calls within the existing or proposed exemptions contended that "a debtor who has failed to pay a debt is, in most cases, a person who no longer wishes to have a relationship with the creditor." That commenter went on to assert that it was an invasion of a debtor's privacy to be subject to calls from a creditor with whom the debtor no longer wishes to do business.^{2/} By contrast, commenters supporting the adoption of a separate express exemption for debt collection calls contended that such an exemption is necessitated by potential uncertainty as to whether a "business relationship" can be unilaterally terminated by a debtor.^{3/}

We conclude that lawful debt collection calls do not adversely affect the privacy concerns of telephone subscribers. We also conclude that debt collection calls fall within both the "business relationship" exemption and the exemption for commercial calls which do not include any unsolicited advertisement. While not adopting a separate exemption for debt collection calls, we expressly find that such calls are exempt from the prohibitions on "auto dialer" calls, despite any unilateral attempt by a debtor to terminate its relationship with a creditor during such time as the debtor's account with the creditor remains unsatisfied.

^{1/} NPRM at para. 16.

^{2/} Comments of Consumer Action.

^{3/} Comments of Utilities Telecommunications Council; Comments and Reply Comments of Household International.